

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 4742 of 1999****For Approval and Signature:****HON'BLE MR JUSTICE KS JHAVERI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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GUJARAT INSECTICIDES LTD - Petitioner(s)
Versus
SOMABHAI BALUBHAI PATEL - Respondent(s)

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Appearance :

SINGHI & BUCH ASSO. for Petitioner No(s).: 1.
MR MS MANSURI for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI
Date : 10/08/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and award dated 30th March, 1999 passed by the Labour Court, Bharuch in Reference [L.C.B.] No. 60 of 1991, whereby the Labour Court has directed the petitioner to

reinstate the respondent with continuity in service along with 40% back wages.

2. The short facts of the case are that the respondent was working as a Helper with the petitioner. It is the case of the petitioner that since the respondent was in the habit of remaining absent without authorized leave, a charge sheet was issued to the respondent. Since the charges levelled against the respondent were proved, a second show cause notice was issued as to why he should not be dismissed from the service. It is further the case of the petitioner that with a view to improve the behaviour of the respondent punishment of stoppage of increment for one year was imposed on the respondent.

2.1. It is the case of the petitioner that though an opportunity was given to improve his behaviour, the respondent continued to remain absent. Therefore, charge sheet was issued and departmental inquiry was initiated against him. Since the charges levelled against the respondent were proved, he was dismissed from the service w.e.f. 18th August, 1990.

2.2. Feeling aggrieved by the dismissal order, the respondent raised an industrial dispute which was ultimately referred to the Labour Court, Bharuch for adjudication. The Labour Court after considering the materials produced before it, passed the impugned award. Hence, this petition.

3. During the course of arguments, a suggestion was put forward by this Court to the learned counsel for the parties that the petitioner may pay ex-gratia amount to the respondent in lieu of the award passed by the Labour Court, Bharuch.

4. After consulting the respective parties, the learned counsel for the parties have agreed to accept the suggestion put forward by this Court in its true spirit. Hence, with the consent of the parties the following order is passed :-

- (1) The award dated 30th March, 1999 passed by the Labour Court, Bharuch in Reference [L.C.B.] No. 60 of 1991 is quashed and set aside.

- (2) The petitioner shall after deducting the amount of TDS, pay an amount of Rs.1,63,474=00 [Rs. One lakh Sixty Three Thousand Four Hundred Seventy Four Only] as ex-gratia payment in lieu of the impugned award of the Labour Court to the respondent.

4.1. It is stated that the petitioner has handed over the cheque for the said amount of Rs.1,63,474=00 to the learned advocate for the respondent.

5. With the aforesaid directions, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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